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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

In the Matter of:

Docket No. FIFRA-9-2007-0008

Four Quarters Wholesale, Inc.,

COMPLAINT AND NOTICE OF
OPPORTUNITY FOR HEARING

Respondent.

I. AUTHORITY AND PARTIES

1. This is a civil administrative action brought pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. § 136l(a), for the assessment of a civil administrative penalty against Four Quarters Wholesale, Inc. ("Respondent") for the sale and/or distribution of unregistered pesticides in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

2. Complainant is the Director of the Communities and Ecosystems Division, United States Environmental Protection Agency ("EPA"), Region IX. The Administrator of EPA delegated to the Regional Administrator of Region IX the authority to bring this action under FIFRA by EPA Delegation Order Number 5-14, dated May 11, 1994. The Regional Administrator of Region IX further delegated the authority to bring this action under FIFRA to the Director of the Communities and Ecosystems Division by EPA Regional Order Number 1255.08 CHG1, dated June 9, 2005.

1 3. Respondent is Four Quarters Wholesale, Inc., a corporation headquartered in Los
2 Angeles, California.

3 II. GENERAL ALLEGATIONS

4 4. Respondent is a corporation and therefore fits within the definition of “person” as that
5 term is defined by Section 2(s) of FIFRA, 7 U.S.C. § 136(s). As such, Respondent is subject to
6 FIFRA and the implementing regulations promulgated thereunder.

7 5. From January 2006 through March 2006, Respondent “distributed or sold” as those
8 terms are defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), products colloquially known as
9 Bleach, Fabuloso Pasion De Frutas, Fabuloso Fresca Menta, Fabuloso Lavanda Citrica, and
10 Heavenly Scent Mothball Odor Eater to persons in the United States.

11 6. Bleach, Fabuloso Pasion De Frutas, Fabuloso Fresca Menta, and Fabuloso Lavanda
12 Citrica are disinfectants that are intended to prevent, destroy, repel and/or mitigate bacteria and
13 other microorganisms that are deleterious to man or the environment.

14 7. Bacteria and microorganisms that are deleterious to man or the environment are
15 “pests” as that term is defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t) and 40 C.F.R. §
16 152.5(d).

17 8. Heavenly Scent Mothball Odor Eater is a product that is intended to prevent, destroy,
18 repel and/or mitigate invertebrates (including insects) that are deleterious to man or the
19 environment.

20 9. Invertebrates (including insects) that are deleterious to man or the environment are
21 “pests” as that term is defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t) and 40 C.F.R. §
22 152.5(b).

23 10. A “pesticide” means “any substance or mixture of substances intended for
24 preventing, destroying, repelling, or mitigating any pest.” 7 U.S.C. § 136(u) and 40 C.F.R. §
25 152.3.

26 11. Bleach, Fabuloso Pasion De Frutas, Fabuloso Fresca Menta, Fabuloso Lavanda
27 Citrica, and Heavenly Scent Mothball Odor Eater are “pesticides” as that term is defined in
28 Section 2(u) of FIFRA, 7 U.S.C. § 136(u) and 40 C.F.R. § 152.3.

1 12. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), makes it unlawful for any
2 person to distribute or sell to any person any pesticide that is not registered under Section 3 of
3 FIFRA, 7 U.S.C. § 136a.

4 13. At all times relevant to this Complaint (including all the counts to follow), the
5 pesticides Bleach, Fabuloso Pasion De Frutas, Fabuloso Fresca Menta, Fabuloso Lavanda
6 Citrica, and Heavenly Scent Mothball Odor Eater were not registered under Section 3 of FIFRA,
7 7 U.S.C. § 136a.

8 III. ALLEGED VIOLATIONS

9 COUNT 1: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

10 14. Paragraphs 1 through 13 above are hereby incorporated in this Count 1 by reference
11 as if the same were set forth herein in full.

12 15. On or about January 14, 2006, Respondent "distributed or sold," as those terms are
13 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Bleach to Juan Carlos
14 Arellano in Los Angeles, California.

15 16. By distributing or selling the unregistered pesticide Bleach on or about January 14,
16 2006, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

17 COUNT 2: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

18 17. Paragraphs 1 through 13 above are hereby incorporated in this Count 2 by reference
19 as if the same were set forth herein in full.

20 18. On or about January 17, 2006, Respondent "distributed or sold," as those terms are
21 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Bleach to El Ahorro 98c
22 More y Mas in Bell, California.

23 19. By distributing or selling the unregistered pesticide Bleach on or about January 17,
24 2006, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

25 COUNT 3: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

26 20. Paragraphs 1 through 13 above are hereby incorporated in this Count 3 by reference
27 as if the same were set forth herein in full.

1 21. On or about January 27, 2006, Respondent "distributed or sold," as those terms are
2 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Bleach to Maria Santoyo in
3 Yuma, Arizona.

4 22. By distributing or selling the unregistered pesticide Bleach on or about January 27,
5 2006, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

6 COUNT 4: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

7 23. Paragraphs 1 through 13 above are hereby incorporated in this Count 4 by reference
8 as if the same were set forth herein in full.

9 24. On or about January 30, 2006, Respondent "distributed or sold," as those terms are
10 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Bleach to La Palma 98
11 Cents in Long Beach, California.

12 25. By distributing or selling the unregistered pesticide Bleach on or about January 30,
13 2006, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

14 COUNT 5: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

15 26. Paragraphs 1 through 13 above are hereby incorporated in this Count 5 by reference
16 as if the same were set forth herein in full.

17 27. On or about January 30, 2006, Respondent "distributed or sold," as those terms are
18 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Bleach to Cuyo's 99c Store
19 in Compton, California.

20 28. By distributing or selling the unregistered pesticide Bleach on or about January 30,
21 2006, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

22 COUNT 6: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

23 29. Paragraphs 1 through 13 above are hereby incorporated in this Count 6 by reference
24 as if the same were set forth herein in full.

25 30. On or about March 29, 2006, Respondent "distributed or sold," as those terms are
26 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Bleach to Cutback\$ in
27 Church Rock, New Mexico.

28 31. By distributing or selling the unregistered pesticide Bleach on or about March 29,

1 2006, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

2 COUNT 7: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

3 32. Paragraphs 1 through 13 above are hereby incorporated in this Count 7 by reference
4 as if the same were set forth herein in full.

5 33. On or about January 24, 2006, Respondent "distributed or sold," as those terms are
6 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Bleach to Tina's the 99c
7 Store & More in Las Vegas, Nevada.

8 34. By distributing or selling the unregistered pesticide Bleach on or about January 24,
9 2006, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

10 COUNT 8: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

11 35. Paragraphs 1 through 13 above are hereby incorporated in this Count 8 by reference
12 as if the same were set forth herein in full.

13 36. On or about January 12, 2006, Respondent "distributed or sold," as those terms are
14 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Fabuloso Pasion De Frutas
15 to Senor Dollar in San Elizario, Texas.

16 37. By distributing or selling the unregistered pesticide Fabuloso Pasion De Frutas on or
17 about January 12, 2006, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
18 136j(a)(1)(A).

19 COUNT 9: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

20 38. Paragraphs 1 through 13 above are hereby incorporated in this Count 9 by reference
21 as if the same were set forth herein in full.

22 39. On or about January 11, 2006, Respondent "distributed or sold," as those terms are
23 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Fabuloso Pasion De Frutas
24 to Senor Dollar #1 in San Elizario, Texas.

25 40. By distributing or selling the unregistered pesticide Fabuloso Pasion De Frutas on or
26 about January 11, 2006, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
27 136j(a)(1)(A).

1 COUNT 10: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

2 41. Paragraphs 1 through 13 above are hereby incorporated in this Count 10 by reference
3 as if the same were set forth herein in full.

4 42. On or about March 3, 2006, Respondent "distributed or sold," as those terms are
5 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Fabuloso Pasion De Frutas
6 to My Family .99 in Los Angeles, California.

7 43. By distributing or selling the unregistered pesticide Fabuloso Pasion De Frutas on or
8 about March 3, 2006, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
9 136j(a)(1)(A).

10 COUNT 11: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

11 44. Paragraphs 1 through 13 above are hereby incorporated in this Count 10 by reference
12 as if the same were set forth herein in full.

13 45. On or about March 3, 2006, Respondent "distributed or sold," as those terms are
14 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Fabuloso Fresca Menta to
15 My Family .99 in Los Angeles, California.

16 46. By distributing or selling the unregistered pesticide Fabuloso Fresca Menta on or
17 about March 3, 2006, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
18 136j(a)(1)(A).

19 COUNT 12: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

20 47. Paragraphs 1 through 13 above are hereby incorporated in this Count 12 by reference
21 as if the same were set forth herein in full.

22 48. On or about March 3, 2006, Respondent "distributed or sold," as those terms are
23 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Bleach to My Family .99 in
24 Los Angeles, California.

25 49. By distributing or selling the unregistered pesticide Bleach on or about March 3,
26 2006, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

27 COUNT 13: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

28 50. Paragraphs 1 through 13 above are hereby incorporated in this Count 13 by reference

1 as if the same were set forth herein in full.

2 51. On or about January 11, 2006, Respondent "distributed or sold," as those terms are
3 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Fabuloso Pasion De Frutas
4 to Senor Dollar #2 in San Elizario, Texas.

5 52. By distributing or selling the unregistered pesticide Fabuloso Pasion De Frutas on or
6 about January 11, 2006, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
7 136j(a)(1)(A).

8 COUNT 14: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

9 53. Paragraphs 1 through 13 above are hereby incorporated in this Count 14 by reference
10 as if the same were set forth herein in full.

11 54. On or about November 8, 2005, Respondent "distributed or sold," as those terms are
12 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Fabuloso Fresca Menta.

13 55. By distributing or selling the unregistered pesticide Fabuloso Fresca Menta on or
14 about November 8, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
15 136j(a)(1)(A).

16 COUNT 15: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

17 56. Paragraphs 1 through 13 above are hereby incorporated in this Count 15 by reference
18 as if the same were set forth herein in full.

19 57. On or about November 30, 2005, Respondent "distributed or sold," as those terms are
20 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Fabuloso Pasion De Frutas.

21 58. By distributing or selling the unregistered pesticide Fabuloso Pasion De Frutas on or
22 about November 30, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
23 136j(a)(1)(A).

24 COUNT 16: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

25 59. Paragraphs 1 through 13 above are hereby incorporated in this Count 16 by reference
26 as if the same were set forth herein in full.

27 60. On or about November 30, 2005, Respondent "distributed or sold," as those terms are
28 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Fabuloso Fresca Menta.

1 61. By distributing or selling the unregistered pesticide Fabuloso Fresca Menta on or
2 about November 30, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
3 136j(a)(1)(A).

4 COUNT 17: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

5 62. Paragraphs 1 through 13 above are hereby incorporated in this Count 17 by reference
6 as if the same were set forth herein in full.

7 63. On or about November 30, 2005, Respondent “distributed or sold,” as those terms are
8 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Fabuloso Lavanda Citrica.

9 64. By distributing or selling the unregistered pesticide Fabuloso Lavanda Citrica on or
10 about November 30, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
11 136j(a)(1)(A).

12 COUNT 18: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

13 65. Paragraphs 1 through 13 above are hereby incorporated in this Count 18 by reference
14 as if the same were set forth herein in full.

15 66. On or about October 7, 2005, Respondent “distributed or sold,” as those terms are
16 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Fabuloso Lavanda Citrica
17 to Noemi Padilla in La Puente, California.

18 67. By distributing or selling the unregistered pesticide Fabuloso Lavanda Citrica on or
19 about October 7, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
20 136j(a)(1)(A).

21 COUNT 19: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

22 68. Paragraphs 1 through 13 above are hereby incorporated in this Count 19 by reference
23 as if the same were set forth herein in full.

24 69. On or about October 7, 2005, Respondent “distributed or sold,” as those terms are
25 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Fabuloso Fresca Menta to
26 Noemi Padilla in La Puente, California.

1 70. By distributing or selling the unregistered pesticide Fabuloso Fresca Menta on or
2 about October 7, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
3 136j(a)(1)(A).

4 COUNT 20: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

5 71. Paragraphs 1 through 13 above are hereby incorporated in this Count 20 by reference
6 as if the same were set forth herein in full.

7 72. On or about July 26, 2005, Respondent "distributed or sold," as those terms are
8 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Fabuloso Fresca Menta to
9 Alisol Discount Store in Los Angeles, California.

10 73. By distributing or selling the unregistered pesticide Fabuloso Fresca Menta on or
11 about July 26, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
12 136j(a)(1)(A).

13 COUNT 21: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

14 74. Paragraphs 1 through 13 above are hereby incorporated in this Count 21 by reference
15 as if the same were set forth herein in full.

16 75. On or about July 26, 2005, Respondent "distributed or sold," as those terms are
17 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Fabuloso Lavanda Citrica
18 to Alisol Discount Store in Los Angeles, California.

19 76. By distributing or selling the unregistered pesticide Fabuloso Lavanda Citrica on or
20 about July 26, 2005, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §
21 136j(a)(1)(A).

22 COUNT 22: Sale and/or distribution of an unregistered pesticide, 7 U.S.C. § 136j(a)(1)(A).

23 77. Paragraphs 1 through 13 above are hereby incorporated in this Count 22 by reference
24 as if the same were set forth herein in full.

25 78. On or about March 30, 2006, Respondent "distributed or sold," as those terms are
26 defined by Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), the pesticide Heavenly Scent Mothball
27 Odor Eater by holding and offering it for sale.
28

79. By distributing or selling the unregistered pesticide Bleach on or about March 30, 2006, Respondent violated Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

IV. PROPOSED CIVIL PENALTY

Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, authorize the assessment of a civil administrative penalty of up to \$6,500 for each violation of FIFRA occurring on or after March 15, 2004. For purposes of determining the amount of the civil penalty to be assessed, FIFRA Section 14(a)(4) requires EPA to consider the size of Respondent's business, the effect on Respondent's ability to continue in business and the gravity of the violations alleged. Based on the violations alleged in this Complaint, and after consideration of the statutory factors enumerated above, EPA proposes to assess the following civil penalty pursuant to FIFRA Section 14(a) and the FIFRA Enforcement Response Policy dated July 2, 1990 (a copy of which is enclosed with this Complaint), which provides a rational, consistent and equitable calculation methodology for applying the statutory penalty factors enumerated above:

Count 1 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 2 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 3 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 4 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 5 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 6 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 7 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 8 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 9 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500

Count 10 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 11 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 12 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 13 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 14 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 15 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 16 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 17 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 18 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 19 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 20 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 21 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
Count 22 (Sale and/or distribution of an unregistered pesticide, violating FIFRA Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A))	\$6,500
TOTAL	\$143,000

V. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

You have the right to request a formal hearing to contest any material fact set forth in this Complaint or to contest the appropriateness of the proposed penalty. Any hearing requested will be conducted in accordance with the Administrative Procedure Act, 5 U.S.C. § 551 *et seq.*, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. A copy of the Consolidated Rules of Practice is enclosed with this Complaint.

You must file a written Answer within thirty (30) days of receiving this Complaint to

1 **avoid being found in default, which constitutes an admission of all facts alleged in the**
2 **Complaint and a waiver of the right to a hearing, and to avoid having the above penalty**
3 **assessed without further proceedings.** If you choose to file an Answer, you are required by the
4 Consolidated Rules of Practice to clearly and directly admit, deny, or explain each of the factual
5 allegations contained in this Complaint to which you have any knowledge. If you have no
6 knowledge of a particular fact and so state, the allegation is considered denied. Failure to deny
7 any of the allegations in this Complaint will constitute an admission of the undenied allegation.

8 The Answer shall also state the circumstances and arguments, if any, which are alleged to
9 constitute the grounds of defense, and shall specifically request an administrative hearing, if
10 desired. If you deny any material fact or raise any affirmative defense, you will be considered to
11 have requested a hearing. The Answer must be filed with:

12 Regional Hearing Clerk (ORC-1)
13 U.S. Environmental Protection Agency, Region IX
14 75 Hawthorne Street
San Francisco, CA 94105

15 In addition, please send a copy of the Answer and all other documents that you file in this action
16 to:

17 Edgar P. Coral
18 Office of Regional Counsel (ORC-2)
U.S. Environmental Protection Agency, Region IX
19 75 Hawthorne Street
San Francisco, CA 94105

20 You are further informed that the Consolidated Rules of Practice prohibit any *ex parte*
21 (unilateral) discussion of the merits of any action with the Regional Administrator, Regional
22 Judicial Officer, Administrative Law Judge, or any person likely to advise these officials in the
23 decision of the case, after the Complaint is issued.

24 VI. INFORMAL SETTLEMENT CONFERENCE

25 EPA encourages all parties against whom a civil penalty is proposed to pursue the
26 possibility of settlement through informal conferences. Therefore, whether or not you request a
27 hearing, you may confer informally with EPA through Mr. Coral, the EPA attorney assigned to
28 this case, regarding the facts of this case, the amount of the proposed penalty, and the possibility

1 of settlement. **An informal settlement conference does not, however, affect your obligation**
2 **to file an Answer to this Complaint.**

3 VII. ALTERNATIVE DISPUTE RESOLUTION

4 The parties also may engage in any process within the scope of the Alternative Dispute
5 Resolution Act, 5 U.S.C. § 581 *et seq.*, which may facilitate voluntary settlement efforts.
6 Dispute resolution using alternative means of dispute resolution does not divest the Presiding
7 Officer of jurisdiction nor does it automatically stay the proceeding.

8 VIII. QUICK RESOLUTION

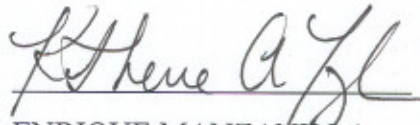
9 Instead of requesting an informal settlement conference or filing an Answer requesting a
10 hearing, you may choose to resolve the proceeding by paying the specific penalty proposed in the
11 Complaint and filing a copy of the check or other instrument of payment with the Regional
12 Hearing Clerk within thirty (30) days after receiving the Complaint. If you wish to resolve the
13 proceeding in this manner instead of filing an answer but need additional time to pay the penalty,
14 you may file a written statement stating that you agree to pay the proposed penalty in accordance
15 with 40 C.F.R. § 22.18(a)(1) with the Regional Hearing Clerk within 30 days after receiving the
16 Complaint. The written statement need not contain any response to, or admission of, the
17 allegations in the Complaint. Within sixty (60) days after receiving the Complaint, the full
18 amount of the proposed penalty must be paid. Failure to make such payment within this sixty-
19 day period may subject you to default. Upon receipt of payment in full, the Regional Judicial
20 Officer will issue a Final Order. Payment by a respondent shall constitute a waiver of the
21 respondent's rights to contest the allegations and to appeal the Final Order. In addition, full
22 payment of the proposed penalty shall only resolve Respondent's liability for Federal civil
23 penalties for violations and facts alleged in the Complaint and does not affect the right of EPA or
24 the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions
for any violations of law.

25 IX. CONSENT AGREEMENT AND FINAL ORDER

26 EPA has the authority, where appropriate, to modify the amount of the proposed penalty
27 to reflect any settlement reached with you in an informal conference or through alternative
28 dispute resolution. The terms of such an agreement would be embodied in a Consent Agreement

1 and Final Order. A Consent Agreement signed by both parties would be binding as to all terms
2 and conditions specified therein when the Regional Judicial Officer signs the Final Order.
3

4 Dated at San Francisco, California on this ____ day of April, 2007.

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7 ENRIQUE MANZANIOLA
8 Director, Communities and Ecosystems Division
9 U.S. Environmental Protection Agency, Region IX
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Regional Hearing Clerk
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, California 94105

and that a true and correct copy of the Complaint; the Consolidated Rules of Practice, 40 C.F.R. Part 22; and the FIFRA Enforcement Response Policy were placed in the United States Mail, certified mail, return receipt requested, addressed to the following:

Betsy Hua
President
Four Quarters Wholesale, Inc.
3183 Bandini Blvd.
Los Angeles, CA 90023

By: Mike Potkanski
U.S. Environmental Protection Agency, Region IX